

**Lafayette County Planning & Zoning Committee Meeting  
and Public Hearing for:  
Rezone Application of Steve Esh and Mark Palzkill  
Special Exception Permit of Donald and Linda Noble**

**Ag Center Conference Room – County Courthouse**

**Wednesday, October 10, 2012  
6:30 PM**

**Call to Order:**

Chairman Wiegel was not present. Sauer called the meeting to order at 6:30 p.m.

**Committee Members Present:**

John Bartels  
David Halloran  
Gerald Heimann  
Dwayne Larson

**Absent:**

Jack Wiegel, Chairman

**Others present:**

Troy Maggied, Planning & Zoning Department Head  
Steve Elmer, Corporation Council  
Jack Sauer, Chairman of Lafayette County Board of Supervisors  
Mark Palzkill, Rezoning Applicant  
Donald and Linda Noble, Special Exception Applicant  
Jeff Scheutz, Zoning Variance Applicant

**State the Purpose of the Public Hearing:**

Maggied stated that the meeting was held to hear public comment on the following three applications:

Application of Steve Esh to rezone 1.8 acres of his land in Belmont Township from A-1 Exclusive Agriculture to R-1 Single-Family Residential for a new home.

Application of Mark Palzkill to rezone 4.37 acres of his land in Kendall Township from A-1 Exclusive Agriculture to R-1 Single-Family Residential for a new home.

Application of Donald and Linda Noble for a Special Exception Permit to construct a non-farm residence on their property in Wiota Township.

**Certify that Open Meeting and Public Notice Requirements Have Been Met:**

Maggied confirmed that all open meeting requirements had been met, with the meetings posted in the Lafayette County Courthouse, the Darlington Municipal Building, the United States Post Office – Darlington Branch, and on the Lafayette County website. Statements by Maggied of notices and Class 2 publications have been completed for the rezone and special exception hearing.

**Describe Committee Authority and Rules of Hearing:**

Maggied described the authority and rules of the hearing from Section 6-7-2.3(b)(2) and 6-7-1.3(B)(6), as they pertain to the A1 Exclusive Agriculture District.

**Read the Application:**

Maggied read the three applications noted above.

**Call for the Applicant's Presentation:**

Steve Esh was not present at the hearing. Maggied stated that Esh's intent is to relocate a residence from a neighboring farm to use when he retires from actively farming.

Mark Palzkill stated that he is purchasing acreage from the family farm. A home already exists on the property, and he is only splitting off the land from a larger tract of land. The land is either rocky and hilly or swampy, and is not suitable for cultivation.

Linda Noble stated that she purchased land in Wiota Township in order to have a seasonal cabin for weekend retreats. There is no plumbing in the building and so there will be no water or sewer necessary.

**Call for Staff Report:**

Maggied stated all three applicants meet their respective rezone or special exception criteria. All three applicants will minimize impacts to agriculture operations their land and on neighboring land, thereby maintaining farmland within the county.

**Statements in Support:**

None offered.

**Statements in Opposition or Rebuttal:**

None offered.

**Town Board Recommendations:**

Maggied stated that he had received meeting minutes from the Town of Belmont's September meeting approving the rezone application of Steve Esh.

Maggied stated that he had received meeting minutes from the Town of Kendall's September meeting approving the rezone application of Mark Palzkill.

Maggied stated that he had received approval from Town of Wiota chairman Dave Stute for the Committee to review and approve the Noble's special exception permit, conditional to Township approval at their October meeting. Subsequent to the October 10 Planning and Zoning Committee Meeting, Maggied received written confirmation that the Town of Wiota unanimously adopted a motion stating that they did not object to the granting of the special exception.

**Statements for Information (Committee Members and Staff):**

Maggied recommended approval of the two rezone applications and the special exception application.

**Last Call for Testimony:**

None offered.

**Adjourn the Public Hearing:**

A motion was made by Larson and seconded by Heimann to adjourn the meeting. Motion carried.

**Lafayette County Planning & Zoning Committee Meeting  
Meeting Minutes**

**Ag Center Conference Room – County Courthouse Building**

**Wednesday, October 10, 2012**

**6:45 P.M.**

**Call to Order:**

Chairman Wiegel was not present. Sauer called the meeting to order at 6:45 p.m.

**Committee Members Present:**

John Bartels  
David Halloran  
Gerald Heimann  
Dwayne Larson

**Absent:**

Jack Wiegel, Chairman

**Others present:**

Troy Maggied, Planning & Zoning Department Head  
Steve Elmer, Corporation Council  
Jack Sauer, Chairman of Lafayette County Board of Supervisors  
Mark Palzkill, Rezoning Applicant  
Donald and Linda Noble, Special Exception Applicant  
Jeff Scheutz, Zoning Variance Applicant

**Proof of Proper Posting of Agenda:**

Maggied confirmed that all open meeting requirements had been met, with the meetings posted in the Lafayette County Courthouse, the Darlington Municipal Building, the United States Post Office – Darlington Branch, and on the Lafayette County website.

**Action on Agenda:**

A motion was made Larson and seconded by Bartels to approve the agenda as posted. Motion carried.

**Approval of Previous Meeting Minutes (9/12/12):**

A motion was made by Halloran and seconded by Bartels to approve the previous minutes. Motion carried.

**Limited Time for Public Comment:**

No further public comment was made.

**Review Standards for Rezoning and Special Exception Applications:**

Maggied read section 6-1-3.4-A1.42 (B) and 6-1-3.4-A1.6 of the Lafayette County Ordinance outlining the “Findings of Consistency with Agricultural Usage” required for granting Special Exception Permits and prescribing the “Standards for Rezoning,” respectively.

**Discussion and Action on Steve Esh Rezone Application:**

A motion was made by Larson and seconded by Bartels to recommend the rezone to the County Board for approval. Motion passed.

**Discussion and Action on Mark Palzkill Rezone Application:**

A motion was made by Heimann and seconded by Halloran to recommend the rezone to the County Board for approval. Motion passed.

**Discussion and Action on Donald and Linda Noble Special Exception Application:**

A motion was made by Halloran and seconded by Larson to approve the application. Motion passed.

**Discussion and Action Jeff Scheutz Variance:**

Jeff Scheutz, owner of the Crossroads Bar and Grill in Wiota, outlined his application to add a small, open-air smoking shed to his bar. The structure would be open on all sides, with only a small fence and roof. The intent is to provide a place for his customer's to smoke outside.

Maggied stated that this project conflicts with the highway set-backs outlined in the ordinance, but that given the small lot size and constraints posed by the placement of the septic system in the rear of the bar, there is no feasible way for Scheutz to build and still meet the set-back requirements from Highway 78.

Maggied recommended approval of the variance and stated that he had received approval from Town of Wiota chairman Dave Stute for the Committee to review and approve the variance, conditional to Township approval at their October meeting.

A motion was made by Heimann and seconded by Larson to approve the variance conditional to approval by the Town of Wiota. Motion passed.

Subsequent to the October 10 Planning and Zoning Committee Meeting, Maggied received written confirmation that the Town of Wiota unanimously adopted a motion stating that they did not object to the granting of the variance.

**Discussion and Possible Action on Septic Maintenance Program:**

Prior to any discussion on the Septic Maintenance Program, Elmer distributed a letter to Maggied and the rest of the Committee. The letter was a response from Elmer to Maggied's recent emails regarding the enforcement process for the Septic Maintenance Program and on the Riley Floodplain Violation.

Maggied noted that the date of the letter was 10/9, but that it was in response to his email dated 9/21. More than two weeks had passed during this time and that delivering the letter at the date of the meeting provided no time for him to read and reflect upon its content.

After all had taken time to read the letter, Maggied stated that he would respond in writing, but that he wished to speak to several points in the letter to the Committee.

- Maggied agreed with Elmer's position that discretion is required in enforcement action, stating that he had successfully brought to closure six of the seven open violations that he had inherited from his predecessor. In doing so, he had spent more than 48 man-hours and over a hundred miles in meeting with and educating the landowners. The result is that these six violations were successfully resolved without one instance of enforcement being necessary. Maggied stated that this reflected his strong commitment to the use of discretion in enforcement actions.
- Maggied stated that he had on multiple occasions asked Elmer if the Riley Floodplain issue was a violation, but that no definitive answer had been given. Elmer responded that it was not his role to interpret the ordinance and identify violations, only to provide guidance on the process of enforcement once a decision has been made. Maggied stated that this should have been made clear during any one of the many previous discussions on violations.
- Maggied agreed with Elmer's letter, stating that he did in-fact want guidance as to the structure of the government. Maggied reported to the Committee that he had pressed Elmer on whether or not

the “specific authorization” of the Committee was required in order to proceed with an enforcement action. This had been Elmer’s request in a previous email, but Maggied stated his concern that, should the Committee take action to not enforce a violation, they would then be on record as officially not abiding by their own ordinance. Maggied stated that Elmer’s request for “specific authorization” could put the Committee in a bad spot.

- Lastly, Maggied argued that he had spent time at each previous Committee meeting reporting to the Committee on his latest actions and findings for the seven violations. Maggied asked the Committee if they felt that he was moving forward without their consent and involvement. None of the Committee said they felt left out of the process, and Larson stated he felt Maggied had been doing a good job keeping the Committee involved.

Regarding the septic maintenance program, Sauer stated that the County had never taken enforcement action in the past on those who had not complied with the state law requiring maintenance and inspection on a 3-year basis. Maggied read a letter sent by Tom McWilliams to Steve Hubner (attached) in 2010, stating his concern that some residents of the county were deliberately not complying with the requirement and were getting away with doing so. Sauer said he disagreed with the program. He said that he pumps his tank when there’s an issue or when it backs up but that he sees no reason to pump it more frequently.

Maggied stated that he had achieved an 80% return rate thus far, and that more were anticipated from the various pumpers he had spoken with.

Elmer stated that there is no citation process in place now, but that if one were in place the citations would be issued by the Zoning Administrator and handled by the District Attorney. Maggied suggested that he take the rest of 2012 and early 2013 to look into the citation process and how this works in the Administrator / Committee relationship. This process could then be in place for 2013. The Committee agreed with this course of action.

#### **Discussion on Floodplain Zoning Violations:**

- Darlington Township – Riley Brothers
  - Sauer stated that the County had historically only taken enforcement action when they had received complaints from neighbors or from the Townships. No such complaint had been received regarding the Riley violation.

Maggied stated again that he hadn’t gone looking for this issue, but that Steve Hubner had been working on it when he retired. Maggied stated again that it was a violation, and asked Elmer to confirm. Elmer stated that it wasn’t his role to identify what was or was not a violation, but that his role was to advise the county on the process for enforcement action if such a decision was made.

Heimann stated that he was against enforcement since no complaint had been received from neighbors or the Township.

Following this discussion, the Committee decided to take no action at this time.

#### **Discussion on sharing of roles and responsibilities with Land Conservation Department:**

Maggied stated that this agenda had been generated and posted prior to the decision by the Finance Committee to cut \$50,000 from the Land Conservation Department (LCD). Maggied asked Sauer if the intent of the cut was to eliminate one position from LCD. Sauer responded that this was the intent.

Maggied stated that, had the previous strategy to merge departments and not eliminate any positions been maintained, it had been his intent to cross-train Al Brandt on the NR 135 non-metallic mining program

and Roger Lange on the septic inspection program. Maggied stated that he would maintain accountability for these two programs, but that the two LCD staff would provide additional support and manpower.

Maggied stated that it is still the intention of LCD and Zoning to merge and to share in these roles, however a final plan will have to wait for a final budgetary decision from the Finance Committee and the County Board as a whole.

**Approval of Vouchers:**

A motion was made by Heimann and seconded by Bartels to approve payment of the vouchers. Motion carried.

**Next Meeting Date:**

The next meeting will be Wednesday November 14, 2012 at 6:30 p.m. in the Ag Center Conference Room.

**Adjourn:**

A motion was made by Halloran and seconded by Larson to adjourn the meeting. Motion carried.

Recorded By:

Troy Maggied  
P&Z Department Head